

§ 40.171

make application for and shall be assigned only one employer identification number for all internal revenue tax purposes.

(75 Stat. 828; 26 U.S.C. 6109)

[T.D. 7055, 35 FR 13515, Aug. 25, 1970. Redesignated at 40 FR 16835, Apr. 15, 1975]

§ 40.171 Execution and filing of Form SS-4.

The application on Form SS-4, together with any supplementary statement, shall be prepared in accordance with the form, instructions, and regulations applicable thereto, and shall set forth fully and clearly the data therein called for. The application shall be filed with the service center director serving any internal revenue district where the applicant is required to file returns under this part, except that hand-carried applications may be filed with the district director of any such district as provided for in 26 CFR 301.6091-1. The application shall be signed by (a) the individual if the person is an individual; (b) the president, vice president, or other principal officer if the person is a corporation; (c) a responsible and duly authorized member or officer having knowledge of its affairs if the person is a partnership or other unincorporated organization; or (d) the fiduciary if the person is a trust or estate.

(75 Stat. 828; 26 U.S.C. 6109)

[T.D. 7055, 35 FR 13515, Aug. 25, 1970. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF-48, 44 FR 55855, Sept. 28, 1979]

RECORDS

§ 40.181 General.

Every manufacturer of tobacco products must keep records of his operations and transactions which shall reflect, for each day, the information specified in §§ 40.182 and 40.183. For this purpose *day* shall mean calendar day, except that the appropriate TTB officer may, upon application of the manufacturer by letter, in duplicate, authorize as such day for a factory a 24-hour cycle of operation other than the calendar day. A day once so established as other than the calendar day may be changed only by another application

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approved by the appropriate TTB officer. No specific form is required. The manufacturer may use commercial records from which the required information may be readily ascertained for this purpose. The manufacturer shall keep the auxiliary and supplemental records from which such records are compiled and shall keep supporting records, as specified in §§ 40.184 and 40.186, of tobacco products removed subject to tax and transferred in bond. Except as provided in §§ 40.184 and 40.186, the entries in the commercial records so maintained or kept shall be made not later than the close of the next business day following the day on which the transaction(s) occurred. As used in this section the term *business day* shall mean any day other than Saturday, Sunday, a legal holiday in the District of Columbia, or a statewide legal holiday in the State wherein the factory to which the records relate is located.

(72 Stat. 1423, as amended; 26 U.S.C. 5741)

[T.D. ATF-424, 64 FR 71931, Dec. 22, 1999]

§ 40.182 Record of processed tobacco.

(a) A manufacturer of tobacco products who processes tobacco on the factory premises solely for use in the manufacture of tobacco products under that permit, and who does not remove processed tobacco from the factory premises for any purpose other than destruction, must maintain a daily record that shows the total quantity in pounds of all processed tobacco:

- (1) On hand;
- (2) Received, together with the name and address of the person from whom received;
- (3) Used in the manufacture of tobacco products;
- (4) Lost, together with the circumstances of the loss; and
- (5) Destroyed, together with the circumstances of the destruction.

(b) In addition to the recordkeeping and reporting requirements set forth elsewhere in this part, a manufacturer

of tobacco products who removes processed tobacco from the factory premises for any purpose other than for destruction must keep records and submit reports as prescribed in §§ 40.521 and 40.522.

(Approved by the Office of Management and Budget under control number 1513-0068)

EFFECTIVE DATE NOTE: By T.D. TTB-78, at 74 FR 29409, June 22, 2009, § 40.182 was revised, effective June 22, 2009 through June 22, 2012.

§ 40.183 Record of tobacco products.

The record of a manufacturer of tobacco products shall show the date and total quantities of all tobacco products, by kind (small cigars-large cigars; small cigarettes-large cigarettes; chewing tobacco-snuff; pipe tobacco; roll-your-own tobacco):

- (a) Manufactured;
- (b) Received in bond by—
 - (1) Transfer from other factories,
 - (2) Release from customs custody,
 - (3) Transfer from export warehouses, and
 - (4) Transfer from foreign trade zone;
- (c) Received by return to bond;
- (d) Disclosed as an overage by inventory;
- (e) Removed subject to tax (itemize large cigars by sale price in accordance with § 40.22, except that before April 1, 2009, cigars that cost more than \$235.294 may optionally be shown as if the price were \$236 per thousand, and on and after April 1, 2009, cigars that cost more than \$763.222 may optionally be shown as if the price were \$764 per thousand);
- (f) Removed, in bond, for—
 - (1) Export,
 - (2) Transfer to export warehouses,
 - (3) Transfer to other factories,
 - (4) Transfer to a foreign trade zone
- (5) Use of the United States, and
- (6) Experimental purposes off factory premises;
- (g) Otherwise disposed of, without determination of tax, by—
 - (1) Consumption by employees on factory premises,
 - (2) Consumption by employees off factory premises, together with the number of employees to whom furnished,
 - (3) Use for experimental purposes on factory premises,
 - (4) Loss,

- (5) Destruction, and
- (6) Reduction to materials;
- (h) Disclosed as a shortage by inventory; and
- (i) On which the tax has been determined and which are—
 - (1) Received, and
 - (2) Disposed of.

(Approved by the Office of Management and Budget under control number 1512-0358)

[T.D. ATF-421, 64 FR 71923, Dec. 22, 1999, as amended by T.D. ATF-424, 64 FR 71931, Dec. 22, 1999; T.D. ATF-420, 64 FR 71940, Dec. 22, 1999; T.D. TTB-75, 74 FR 14482, Mar. 31, 2009]

§ 40.184 Record of removals subject to tax.

(a) *Requirement.* Every manufacturer of tobacco products must keep a record of tobacco products removed from the factory subject to tax. The manufacturer must make entries in this record at the time of removal. The record for each removal must show:

- (1) The date of removal,
- (2) The name and address of the person to whom shipped or delivered,
- (3) The kind and quantity of tobacco products removed, and
- (4) For large cigars, show the sale price (if the sale price is more than \$235.294 per thousand before April 1, 2009, or more than \$763.222 per thousand on and after April 1, 2009, you may place a note to that effect in the record instead of the actual price).

(b) *Exceptions.* (1) The record of removal may consist of the manufacturer's commercial documents, such as copies of invoices, rather than records prepared expressly to meet the requirements of this section. If commercial documents are used, they must be kept at the factory, contain all the details required by this section, and be clear and accurate. Commercial documents that do not show specifically the tax classification of tobacco products (including sale price of large cigars) are still acceptable if they contain adequate information for an appropriate TTB officer to readily ascertain the applicable tax.

- (2) Where tobacco products are delivered within the factory directly to the